

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY VIENNA

UNCLAS STATE 090056

E.O. 11652: N/A

TAGS: EIND, AU

SUBJECT: AUSTRIAN PATENT CASE IN U.S. COURTS

EMBTTEL 3110. BASICALLY, THIS WAS A PATENT INFRINGEMENT CASE THAT THE U.S. COURT OF APPEALS FOR THE THIRD CIRCUIT, IN PHILADELPHIA, DECIDED ON APPEAL IN FAVOR OF THE DEFENDANT, JONES & LAUGHLIN STEEL CORPORATION, AN AFFILIATE OF LTV CORPORATION. THE PATENT IS FOR THE BASIC OXYGEN FURNACE (BOF). THE SUIT WAS ORIGINALLY FILED IN THE U.S. DISTRICT COURT FOR WESTERN DISTRICT OF PENNSYLVANIA BY KAISER INDUSTRIES CORPORATION (LICENSED TO SELL THE BOF PATENT IN U.S.) VEREINIGTE OSTERICHE EISEN-UND-STAHLWERKE, A.V. (OWNER OF THE BOF PATENT), AND BRASSERT OXYGEN TECHNIK A.G. (HOLDER OF WORLD LICENSE FOR THE BOF PATENT). THE JUDGE IN THE U.S. DISTRICT COURT IGNORED THE PRECEDENT OF AN EARLIER DISTRICT COURT CASE BY LOOKING INTO THE MERITS OF THAT DECISION AND WAS ABLE THEREFORE TO FIND THAT JONES & LAUGHLIN HAD INFRINGED THE PATENT. THE COURT OF APPEALS OVERTURNED THIS DECISION ON THE GROUNDS THAT THE DISTRICT COURT ERRED BY MAKING AN IMPROPER INQUIRY INTO THE MERITS OF THE EARLIER CASE. THE ABOVE INFORMATION IS UNCLASSIFIED

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BASED ON PRESS REPORTS. COPIES OF THE PERTINENT COURT

DECISIONS HAVE BEEN ORDERED AND WILL BE FORWARDED TO THE
EMBASSY. NO INFORMATION YET AVAILABLE WHETHER THIRD
CIRCUIT COURT DECISION WILL BE APPEALED. EMBASSY WILL BE
KEPT INFORMED ON DEVELOPMENTS. KISSINGER

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Message Attributes

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